

## **KFTC finalizes the consent resolution with Apple Korea**

### **-Apple Korea offers support programs worth KRW 100 billion intended for consumers and small businesses-**

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Anti-Monopoly Division (Service)

The Korea Fair Trade Commission (KFTC) initiated the consent resolution process after two deliberations following Apple Korea's application for a consent resolution over its alleged abuse of dominant position filed on June 4, 2019.

In August 2020, the Commission came up with a provisional consent resolution following consultations with Apple Korea. As a next step, it collected opinions from the Prosecution, five relevant ministries including the Ministry of Education, Korea Communications Commission, Ministry of Science and ICT, Ministry of Trade, Industry and Energy and Ministry of SMEs and Startups and other interested parties for 60 days. After undergoing such procedures, in January 2021, the KFTC finalized the consent resolution with Apple Korea reflecting on the opinions proposed by the relevant ministries and interested parties.

To address unfair trade practices, Apple Korea proposed the following corrective measures to improve contract with local mobile carriers, its trading partner.

1. To ensure more transparent and fairer procedures related to the negotiation and execution of advertising funds.
2. To remove clauses that require mobile carriers to pay warranty repair costs or allow unilateral cancellation of contract by Apple Korea.
3. To replace the current patent license clauses with a mutually beneficial mechanism that guarantees the rights of mobile carriers and applicants while preventing patent disputes during the contract term.
4. To adjust minimum subsidies to correspond to the discounts on mobile bills provided by telecom firms and have mutual discussion in case of non-compliance.

Apart from taking behavioral corrective measures, Apple Korea vowed to offer 100 billion won worth of support programs to seek mutual benefits with SMEs and enhance consumer welfare.

Out of the 100 billion won, the company will spend 40 billion won in building a R&D center to help Korean SMEs in the smartphone manufacturing industry and provide various educational programs. Apple currently operates R&D centers in countries including China, Japan and Israel. However, the R&D center it plans to establish in Korea will focus on

manufacturing development and any SMEs in Korea will be eligible to apply for the program regardless of whether or not they have a business relationship with Apple. Another 25 billion won will be used to set up Apple Developer Academy that will provide a nine-month training program for 200 selected students per year and to partner with local universities. Currently, Apple operates Developer Academy in Italy, Brazil and Indonesia.

The company also earmarked 10 billion won to provide digital education for innovation schools and underprivileged students, including those with special education needs, in remote and rural areas and from multicultural households, and public facilities such as libraries and science museums. Finally, the remaining 25 billion won will be spent to give discounts on warranty repair costs for iPhone users and discounts on AppleCare Plus service or a refund.

Moving forward, the KFTC will thoroughly monitor the implementation of corrective measures by Apple Korea for the next three years. To that end, the KFTC will appoint an accounting firm to monitor the implementation process and have Apple bear the full cost for monitoring.

In addition, the KFTC plans to receive a monitoring report on implementation every six months to check whether the company strictly complies with the consent resolution. If the monitoring report confirms any issues related to relevant ministries, the KFTC will immediately share those issues with the ministries concerned and gather their opinions.

However, the KFTC may impose an enforcement fine of two million won per day or revoke the consent resolution if the company fails to implement the corrective measures without proper reasons.

Meanwhile, the consent resolution adopted for Apple Korea is expected to enhance trade practices and bring tangible benefits to SMEs and consumers in Korea. Furthermore, the resolution will lay the groundwork for promoting fair transactions between trading partners through voluntary corrective action by an enterprise. The KFTC also expects the support programs to provide direct benefits to SMEs, consumers and program developers.

*\*The Korean text of the documents is confirmed to be authentic and English version is only for reference*